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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92053237
Party	Defendant Wildwood Gin, Inc.
Correspondence Address	B CRAIG KILLOUGH BARNWELL WHALEY PATTERSON & HELMS LLC 885 ISLAND PARK DRIVE, PO DRAWER H CHARLESTON, SC 29402 UNITED STATES elipscomb@barnwell-whaley.com
Submission	Defendant's Notice of Reliance
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Date	12/07/2011
Attachments	Registrant's Notice of Reliance.pdf ( 51 pages )(4348994 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

BARNHARDT MANUFACTURING  
COMPANY,

Petitioner,

v.

WILDWOOD GIN, INC.,

Registrant

Cancellation No.: 92053237

Registration No.: 3,670,482

Mark: ULTRACLEAN

**REGISTRANT'S NOTICE OF RELIANCE**  
**PURSUANT TO TRADEMARK RULE 2.121(e)**

Registrant, Wildwood Gin, Inc. ("Wildwood") hereby submits this Notice of Reliance pursuant to Trademark Rule 2.121(e). Specifically, Wildwood gives notice that it will rely on the following items as evidence.

1. Barnhardt's Response to Wildwood Gin's First Set of Interrogatories attached as Exhibit 1.
2. Petitioner's Responses to Wildwood Gin's First Request for Admissions attached as Exhibit 2.
3. 30(b)(6) Deposition Transcript of Lewis Barnhardt taken October 25, 2011 with all corresponding exhibits attached as Exhibit 3.

This the 7th day of December 2011.



Ernest B. Lipscomb, III

B. Craig Killough

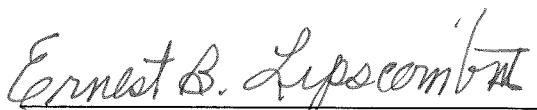
Attorneys for the Registrant

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true copy of, REGISTRANT'S NOTICE OF RELIANCE PURSUANT TO TRADEMARK RULE 2.121(e) was served upon opposing counsel via E-Mail to the below on this the 7th day of December 2011.

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# **EXHIBIT 1**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Barnhardt Manufacturing Company,	)	
	)	
Petitioner,	)	
	)	
v.	)	Cancellation No. 920553237
	)	
Wildwood Gin, Inc.,	)	
	)	
	)	
Registrant.	)	

**BARNHARDT'S RESPONSE TO WILDWOOD'S  
FIRST INTERROGATORIES**

COMES NOW Barnhardt Manufacturing Company, Petitioner in the above captioned proceeding (hereinafter "Barnhardt"), by and through its legal counsel, OLIFF & BERRIDGE, PLC, and in response to Wildwood Gin Company's First Set of Interrogatories (hereinafter "Wildwood") presents the following:

**PRELIMINARY STATEMENT**

Barnhardt has not completed its discovery or preparation for this proceeding. Investigation, discovery, legal research and analysis are continuing, and, therefore, Barnhardt may discover further information, documents or facts that will add meaning to the facts already known or will establish new factual conclusions or legal contentions. As a result, the following responses are based on Barnhardt's knowledge as of the date of these responses and are given without prejudice to Barnhardt's right to produce evidence of any subsequently discovered information, documents or facts.

## **GENERAL OBJECTIONS**

Barnhardt makes the following general objections in addition to the specific responses set forth below, and expressly incorporates them into each specific response set forth below.

1. Barnhardt objects to each Interrogatory to the extent that they seek information, documents and things that are protected from disclosure by the attorney-client privilege, the attorney work-product doctrine, or any other privilege from discovery under federal or state statutory, constitutional or common law.

2. Barnhardt objects to each Interrogatory to the extent each requests or requires the review of numerous files in numerous locations, pertaining to third parties, without any meaningful limitation, on the grounds that the Interrogatory is overly broad, unduly burdensome and oppressive, and is not reasonably calculated to lead to the discovery of admissible evidence.

3. Barnhardt specifically objects to the definitions contained in Wildwood's First Interrogatories to the extent each seeks to impermissibly enlarge the obligations of this responding party.

4. Barnhardt objects to Wildwood's Interrogatories and the accompanying definitions to the extent that each calls for Barnhardt to produce documents containing information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence.

5. Barnhardt objects to Wildwood's Interrogatories and the accompanying definitions to the extent that such requests are vague and/or ambiguous.

6. Barnhardt objects to Wildwood's Interrogatories to the extent that they purport to impose upon Barnhardt a duty to search for and/or disclose information that is not within Barnhardt's possession, custody or control.

7. Barnhardt objects to Wildwood's Interrogatories to the extent that they seek to require Barnhardt to provide information beyond what is presently available to Barnhardt either from its employees, or based on a reasonable search of its own files.

8. Barnhardt objects to Wildwood's Interrogatories to the extent they seek information that is a matter of public record or otherwise equally accessible to Barnhardt and Wildwood.

9. Barnhardt objects to Wildwood's Interrogatories to the extent that they seek information that is obtainable from other sources that are more convenient, less burdensome and/or less expensive than obtaining such items from Barnhardt.

10. All documents and/or tangible things produced pursuant to Wildwood's request are produced without admitting the materiality or admissibility of any document or tangible thing, and all objections to their use and/or to further production are hereby expressly preserved. Barnhardt further objects to Wildwood's Interrogatories to the extent that they require or suggest a legal conclusion or assert facts not proven, and any production in response to a request is not to be interpreted as a mental impression, opinion, or legal or factual conclusion.

### **SPECIFIC RESPONSES AND OBJECTIONS**

Incorporating its preliminary statement and general objections into each specific response below, without waiving any of the objections asserted above, Barnhardt specifically responds to Wildwood's First Set of Interrogatories as follows:

1. Identify each and every person, including without limitation, your officers, your employees and any third parties, who provided any information or documents used in preparing your response to each interrogatory and Request for Production served in the instant action.

**Barnhardt incorporates its Preliminary Statement and General Objections. Subject to and without waiver of the foregoing general objections, Barnhardt responds that the following people were involved in responding:**

**George Hargrove, Vice President of Sales and Marketing**

**Blair Rector, Purchasing Manager**

**Lewis Barnhardt, President and COO**

**David Spinks, Director of Technical Services**

**Garland Green, Director of New Market Development**

**All of the above are current employees of Barnhardt Manufacturing Company, 1100 Hawthorne Lane, P.O. Box 34276, Charlotte, NC 28234.**

2. Describe how and to what extent Barnhardt has sold Products using the term Ultraclean or a variation thereof, including without limitation, the names or other identifying designations of the Product using the term Ultraclean; the amount of Products bearing the name Ultraclean that have been made by Barnhardt; where each such manufacture occurred; an identification of customers for whom the Products were made; and identify the person(s) most knowledgeable with respect to the foregoing.



**The following response includes "Trade Secret/Commerically Sensitive" information under the Protective Order entered in this proceeding.**

**Barnhardt incorporates its Preliminary Statement and General Objections. Subject to and without waiver of the foregoing general and specific objections, Barnhardt responds that Barnhardt uses the mark ULTRA-CLEAN on cotton that has been optimally cleaned to be purified or used as a bleached raw material. The decision to produce this type of product was customer-driven. Barnhardt's customer, Spuntech Ind. Ltd., specifically requested this type of product in late 2005. In 2006, Barnhardt began producing the products and selling them under the ULTRA-CLEAN mark and continues to produce and sell products with the ULTRA-CLEAN mark. Barnhardt marks the bales of the product with a label bearing the mark ULTRA-CLEAN and both purchase orders and invoices for the product include the ULTRA-CLEAN mark. All ULTRA-CLEAN products are manufactured at Barnhardt's Charlotte, North Carolina location, 1100 Hawthorne Lane, Charlotte, NC 28234, and the person most knowledgeable is George Hargrove, Vice President of Sales and Marketing, Barnhardt Manufacturing Company, 1100 Hawthorne Lane, P.O. Box 34276, Charlotte, NC 28234. Barnhardt's manufactures the ULTRA-CLEAN products primarily for the company, SPUNTECH IND. LTD. N.R., Upper Tiberias, P.O. Box 3320, 14133 Israel, Israel. Barnhardt objects to providing the amount of ULTRA-CLEAN products sold as irrelevant to this proceeding and the likelihood of confusion between Barnhardt's ULTRA-CLEAN mark and Wildwood's ULTRACLEAN mark.**

3. State your basis for your allegation in the paragraph 3 of the Petition that Barnhardt has used the term Ultraclean or a variation thereof on the sale of raw cotton.

**Barnhardt incorporates its Preliminary Statement and General Objections. Subject to and without waiver of the foregoing general objections, Barnhardt responds that Barnhardt uses the mark ULTRA-CLEAN on cotton that has been optimally cleaned to be purified or used as a bleached raw material since 2006. The basis of the allegation in paragraph 3 of the Petition is personal knowledge of Barnhardt's ULTRA-CLEAN products by Barnhardt, specifically George Hargrove, Vice President of Sales and Marketing, Barnhardt Manufacturing Company, 1100 Hawthorne Lane, P.O. Box 34276, Charlotte, NC 28234.**

4. Describe in detail the circumstances under which Barnhardt first became aware of Wildwood's ULTRACLEAN® trademark for raw cotton, including without limitation, the date(s) on which Barnhardt first became aware of the Wildwood's ULTRACLEAN® trademark for raw cotton; the manner in which Barnhardt first became aware of Wildwood's ULTRACLEAN® trademark for raw cotton, whether via oral or written communication from any third party or anyone associated with Barnhardt, and the identity of the person(s) most knowledgeable with respect to all of the foregoing. Response to this Interrogatory should include Barnhardt's first knowledge of Wildwood's use of the term ULTRACLEAN on raw cotton.

**Barnhardt incorporates its Preliminary Statement and General Objections. Subject to and without waiver of the foregoing general and specific objections, Barnhardt responds that in March of 2010, George Hargrove first saw an advertisement for T.J. Beall's ULTRACLEAN product in the March 2010 issue of *Nonwoven Industry*. This advertisement is the same one that was attached to the original letter, dated April 27, 2010, sent from Barnhardt's counsel to T.J. Beall Company. After some research, George Hargrove also discovered that T.J. Beall advertised and discussed the ULTRACLEAN product on the website [www.tjbeall.com](http://www.tjbeall.com). George Hargrove, Vice President of Sales and Marketing, Barnhardt Manufacturing Company, 1100 Hawthorne Lane, P.O. Box 34276, Charlotte, NC 28234, is the person most knowledgeable about this subject.**

5. Identify each and every person, including without limitation, your officers, your employees and any third parties, who formed the basis for your allegation in paragraph 5 of the Petition that Barnhardt's Products are virtually identical to Wildwood's product sold under Wildwood's ULTRACLEAN® trademark for raw cotton

**Barnhardt incorporates its Preliminary Statement and General Objections. Subject to and without waiver of the foregoing general objections, Barnhardt responds that George Hargrove, Vice President of Sales and Marketing, Barnhardt Manufacturing Company, 1100 Hawthorne Lane, P.O. Box 34276, Charlotte, NC 28234, formed the basis of the allegation in paragraph five of the Petition upon, among other things, the advertisements for Wildwood's ULTRACLEAN product that describe Wildwood's ULTRACLEAN product and his own personal knowledge of Barnhardt's products.**

6. Identify each and every person, including without limitation, your officers, your employees and any third parties, who formed the basis for your allegation in paragraph 6 of the Petition that Wildwood was aware of Barnhardt's use of the term Ultraclean before Wildwood adopted ULTRACLEAN® raw cotton for its own use.

**Barnhardt incorporates its Preliminary Statement and General Objections. Subject to and without waiver of the foregoing general objections, Barnhardt responds that the following people form the basis of the allegation in paragraph six of the Petition and are most knowledgeable about Barnhardt's use of the term ULTRA-CLEAN before Wildwood adopted the ULTRACLEAN mark:**

**George Hargrove, Vice President of Sales and Marketing**

**Blair Rector, Purchasing Manager**

**Lewis Barnhardt, President and COO**

**David Spinks, Director of Technical Services**

**Garland Green, Director of New Market Development**

**All of the above are current employees of Barnhardt Manufacturing Company, 1100 Hawthorne Lane, P.O. Box 34276, Charlotte, NC 28234.**

**Barnhardt believes that Wildwood was aware of Barnhardt's ULTRA-CLEAN mark because of, among other things, the relationship between Wildwood and T.J. Beall; Barnhardt's past business relationship with T.J. Beall; employees of Barnhart (Lewis Barnhardt, Tom Barnhardt, and Blair Rector) have socialized with employees with T.J.**

**Beall (Julian Beall and Bruce Beall) on recreational fishing trips and dinners both before and after Barnhardt's development of the ULTRA-CLEAN product and mark; both Barnhardt and T.J. Beall and Wildwood are in the same industry and are competitors; Barnhardt has several ULTRA prefix marks that have been in use in commerce for a number of years and are well-known in the industry.**

7. Identify each and every person, including without limitation, your officers, your employees and any third parties, who first suggested that Barnhardt use the term Ultraclean and when this occurred.

**Barnhardt incorporates its Preliminary Statement and General Objections. Subject to and without waiver of the foregoing general objections, Barnhardt responds that the decision was made to adopt the ULTRA-CLEAN mark to 1) build on Barnhardt's family of marks with the ULTRA prefix. George Hargrove, Vice President of Sales and Marketing, Barnhardt Manufacturing Company, 1100 Hawthorne Lane, P.O. Box 34276, Charlotte, NC 28234, made the ultimate decision to adopt the mark ULTRA-CLEAN in 2006.**

8. State all bases why Barnhardt considers its use of the term Ultraclean to be a famous mark under 15 U.S.C. §1125(c).

**Barnhardt incorporates its Preliminary Statement and General Objections. Subject to and without waiver of the foregoing general objections, Barnhardt responds that Barnhardt has built a family of marks bearing the ULTRA prefix and all of the ULTRA**

**prefix marks are widely known in the industry to belong to Barnhardt and refer to Barnhardt's products.**

9. Describe all forms and specifications of the Products that use the term Ultraclean.

**The following response includes "Trade Secret/Commerically Sensitive" information under the Protective Order entered in this proceeding.**

**Barnhardt incorporates its Preliminary Statement and General Objections. Subject to and without waiver of the foregoing general objections, Barnhardt responds that the mark ULTRA-CLEAN is used on bleached cotton that has been cleaned in its raw form by Barnhardt's Phase I Cleaning line or Phase I & II in some cases. Example: ULTRA-CLEAN comber is cleaned through Phase I cleaning. (Typically comber is not cleaned mechanically prior to bleaching). Virgin cotton would be cleaned through Phase I & II.**

10. Identify each and every person, including without limitation, your officers, your employees and any third parties, who developed and/or approved advertising related to Barnhardt's use of the term Ultraclean.

**Barnhardt incorporates its Preliminary Statement and General Objections. Subject to and without waiver of the foregoing general objections, Barnhardt responds that it has not developed or approved formal advertising specifically for the mark ULTRA-CLEAN.**

11. Identify each and every person, including without limitation, your officers, your employees and any third parties, who are responsible for the sale of the Product.

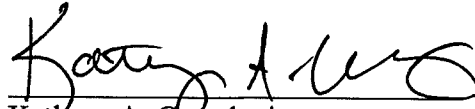
**Barnhardt incorporates its Preliminary Statement and General Objections. Subject to and without waiver of the foregoing general objections, Barnhardt responds that Garland Green, Director of New Market Development, Barnhardt Manufacturing Company, 1100 Hawthorne Lane, P.O. Box 34276, Charlotte, NC 28234, is the person most responsible for and knowledgeable about the sale of the Product.**

12. Identify each and every person, including without limitation, your officers, your employees and any third parties, who formed the basis for the allegation in paragraph 11 of the Petition that Barnhardt has been damaged by Wildwood and the state the extent of such damages.

**Barnhardt incorporates its Preliminary Statement and General Objections. Subject to and without waiver of the foregoing general objections, Barnhardt responds that Barnhardt is damaged by the inability to register its own ULTRA-CLEAN trademark, and use of a confusingly similar mark by a competitor for similar goods in the same industry. George Hargrove, Vice President of Sales and Marketing, Barnhardt Manufacturing Company, 1100 Hawthorne Lane, P.O. Box 34276, Charlotte, NC 28234, formed the basis of the allegations in paragraph 11.**

This the 23<sup>rd</sup> day of March, 2011.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Kathryn A. Gromlovits', written over a horizontal line.

Kathryn A. Gromlovits

NC Bar No. 32700

OLIFF & BERRIDGE, PLC

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kgromlovits@oliff.com

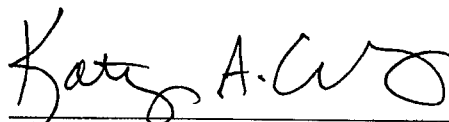


**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing, BARNHARDT'S RESPONSE TO WILDWOOD'S FIRST INTERROGATORIES, was duly served on counsel of Registrant by delivering a copy via email to the following attorney of record.

This the 23<sup>rd</sup> day of March, 2011.

Ernest P. Lipscomb, III, Esq.  
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Kathryn A. Gromlovits  
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## **EXHIBIT 2**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

<b>BARNHARDT MANUFACTURING COMPANY</b>	)	
	)	
<b>Petitioner,</b>	)	<b>Cancellation No. 92053237</b>
	)	
<b>v.</b>	)	
	)	
<b>WILDWOOD GIN, INC.</b>	)	
	)	
<b>Registrant</b>	)	

**PETITIONER'S RESPONSES TO WILDWOOD GIN'S  
FIRST REQUEST FOR ADMISSIONS**

To: Registrant, and  
Your attorneys of record

Pursuant to Rule 36, Fed. R. Civ. P., Petitioner Barnhardt Manufacturing Company ("Petitioner") hereby responds to Registrant Wildwood Gin, Inc.'s First Set of Request for Admissions as set forth herein below.

1. Admit that Wildwood Gin is the owner of United States Trademark Registration No. 3,670,482 registered August 18, 2009.

*Admitted*

2. Admit that the label shown in Barnhardt's Response to Discovery Document BAR 000001 was not made before May 9, 2008.

*Admitted*

3. Admit that between the dates of December 12, 2006 and May 9, 2008 Barnhardt did not make a sale of Product using the name Ultraclean to any third party.

*Denied*

4. Admit that between the dates of December 12, 2006 and May 9, 2008 Barnhardt did not ship any Product using the name Ultraclean to any third party.

*Denied*

5. Admit that between December 2006 and May 2008 Barnhardt did not ship any Product to anyone other than Spuntech Ind. Ltd, N.R.

*Denied*

6. Admit that raw cotton is not bleached cotton.

*Admitted*

7. Admit that Barnhardt did not use the name Ultraclean in connection with the sale of raw cotton prior to May 2008.

*Denied*

8. Admit that the first time Barnhardt became aware of Wildwood's use of the mark Ultra Clean was in March 2010.

*Admitted*

9. Admit that Barnhardt did not consider obtaining a trademark registration of the mark ULTRACLEAN until after it became aware of Wildwood's use of the mark.

*Admitted*

10. Admit that Wildwood was not aware of any use or sale of Product by Barnhardt prior to May 2008.

*Denied*

11. Admit that Barnhardt did not advertise the term "Ultra Clean," "Ultraclean" or "Ultra-Clean" prior to August 2009.

*Denied*

12. Admit that Barnhardt Discovery Documents BAR 000079-000080 do not mention the term Ultraclean.

*Admitted*

13. Admit that Barnhardt Discovery Documents BAR 000065 through 000078 and Documents BAR 000081 through 000086 do not mention the term Ultraclean.

*Denied*

14. Admit that Barnhardt Discovery Documents BAR 000087 through 000091 are dated after May 2008 and refer to occurrences that happened after May 2008.

*Admitted*

15. Admit that Barnhardt abandoned its trademark registration or trademark application for UltraWhite in 2005.

*Admitted*

16. Admit that Barnhardt abandoned its trademark registration or trademark application for UltraPure in 2004.

*Admitted*

17. Admit that Barnhardt abandoned its trademark registration or trademark application for Ultrawhite Soft in 1994.

*Admitted*

18. Admit that Barnhardt's trademark registration for UltraBlock was cancelled in 2006.

*Admitted*

19. Admit that Barnhardt abandoned its trademark registration or trademark application for UltraScent in 2005.

*Admitted*

20. Admit that Barnhardt's trademark registration for UltraSorb was cancelled in 2009.

*Admitted*

21. Admit that Barnhardt abandoned its trademark registration or trademark application for Ultrasorbent in 2001.

*Admitted*

22. Admit that the only trademark registration or trademark application that contains the term "Ultra" that had not been abandoned by Barnhardt or cancelled prior to May 2008 is UltraWhite.

*Admitted*

23. Admit that Barnhardt's Discovery Documents BAR 000002 through 000009 are undated.

*Admitted*

24. Admit that Barnhardt's trademark application Ser. No. 85/072,021 is an attempt to register the single word ULTRACLEAN.

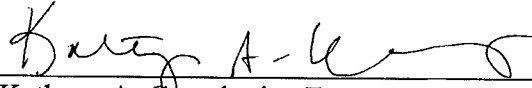
*Denied*

25. Admit that the goods identified in Barnhardt's trademark application Ser. No. 85/072,021 do not include raw cotton.

*Admitted*

Respectfully submitted,

**ADAMS LAW GROUP OF OLIFF & BERRIDGE, PLC**

A handwritten signature in black ink, appearing to read 'Kathryn A. Gromlovits', is written over a horizontal line.

Kathryn A. Gromlovits, Esq.

N.C. Bar No. 32,700

Attorney for Petitioner

Kathryn A. Gromlovits, Esq.

**ADAMS LAW GROUP OF OLIFF & BERRIDGE, PLC**

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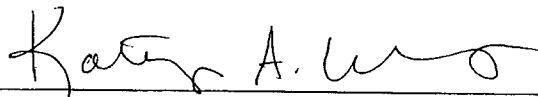
Email: [kgromlovits@oliff.com](mailto:kgromlovits@oliff.com)

### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing PETITIONER'S RESPONSES TO WILDWOOD GIN'S FIRST REQUEST FOR ADMISSIONS were duly served upon the Registrant by delivering copies thereof, via email, addressed to the following attorney of record:

Ernest B. Lipscomb, III  
BARNWELL WHALEY PATTERSON & HELMS, LLC  
885 Island Park Drive  
Charleston, South Carolina 29492-7956  
[elipscomb@barnwell-whaley.com](mailto:elipscomb@barnwell-whaley.com)

This the 27<sup>th</sup> day of July, 2011.



---

Kathryn A. Gromlovits, Esq.  
N.C. Bar No. 32,700  
Attorney for Petitioner  
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## **EXHIBIT 3**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

- - - - -X  
BARNHARDT MANUFACTURING :  
COMPANY, : Cancellation No.  
Petitioner, : 92053237  
v. :  
WILDWOOD GIN, INC., :  
Registrant. :  
- - - - -X

Deposition of LEWIS BARNHARDT

(Taken by Petitioner)

Charlotte, North Carolina

October 25, 2011

Reported by: Andrea Nobrega

Court Reporter

Notary Public

2 (Pages 2 to 5)

Page 2	Page 4
<p>1 APPEARANCE OF COUNSEL: 2 For the Petitioner: 3 THAD ADAMS, Esq. 4 KATHRYN A. GROMLOVITS, Esq. 5 Shumaker, Loop &amp; Kendrick, LLP 6 First Citizens Bank Plaza 7 128 South Tryon Street 8 Suite 1800 9 Charlotte, North Carolina 28202-5013 10 (704) 375-0057 11 Tadams@slk-law.com 12 Kgromlovits@slk-law.com 13 14 Telephonically for the Registrant: 15 ERNEST B. LIPSCOMB, III, Esq. 16 Barnwell Whaley Patterson Helms, LLC 17 885 Island Park Drive 18 Charleston, South Carolina 29492-7956 19 (843) 577-7700 20 Elipscomb@barnwell-whaley.com 21 22 Deposition of LEWIS BARNHARDT, taken by the 23 Petitioner, at 128 South Tryon Street, Charlotte, 24 North Carolina, on the 25th day of October 2011 at 25 10:08 a.m., before Andrea L. Nobrega, Notary Public and Court reporter.</p>	<p>1 PROCEEDINGS 2 Whereupon, LEWIS BARNHARDT, having been first duly 3 sworn, was examined and testified as follows: 4 EXAMINATION BY COUNSEL FOR PETITIONER 5 BY MR. ADAMS: 6 Q. Good morning. Would you state your name 7 for the record, please? 8 A. Lewis Barnhardt. 9 Q. Mr. Barnhardt, what is your occupation? 10 A. I am president and chief operating 11 officer for Barnhardt Manufacturing Company. 12 Q. Would you take just a moment and 13 describe briefly who Barnhardt Manufacturing 14 Company is and what they do? 15 A. Barnhardt Manufacturing Company is a 16 privately owned family business that is based out 17 of Charlotte, North Carolina. 18 We operate in two distinctive markets. 19 We have what we call our natural fibers groups 20 which primarily bleaches cotton, converts cotton 21 that are used in consumer product, fem hygiene, 22 medical type applications and a polyurethane foam 23 business as well. 24 Q. How long has Barnhardt been in business? 25 A. Since 1900.</p>
Page 3	Page 5
<p>1 CONTENTS 2 THE WITNESS: LEWIS BARNHARDT EXAMINATION 3 BY MR. ADAMS: 4 4 BY MR. LIPSCOMB: 23 5 INDEX OF EXHIBITS 6 For The Petitioner Page 7 1 Trademark for the ULTRAWHITE 7 8 2 Page Printed off of the T.J. Beall 9 Website 9 10 3 Document Bates Labeled BAR 000028 13 11 4 E-mail from Garland Green 12 Dated 12/06/05 15 13 5 E-mail from Garland Green 14 Dated 03/27/06 16 15 6 Barnhardt Manufacturing Bale Label 16 for Bleached Cotton 17 17 18 19 20 21 22 23 24 25</p>	<p>1 Q. And has it been owned by the Barnhardt 2 family ever since then? 3 A. Yes, continuously. 4 Q. And has it been involved in the business 5 you just described since its founding? 6 A. Yes, and a few others, yes. 7 Q. Is there a particular way of describing 8 the business niche within which Barnhardt 9 operates? 10 A. Yeah, the nonwovens and the fiber supply 11 of cotton into nonwovens, if that's the niche you 12 are referring to, has been something that we have 13 been in for quite sometime. 14 Q. And is the principal raw material that 15 Barnhardt processes cotton? 16 A. Yes. 17 Q. Is there a particular form of cotton 18 that Barnhardt specializes in processing? 19 A. Well, we have processed really all types 20 of different grades of cotton fiber, but primarily 21 for nonwovens. 22 Q. All right, well, we are here today 23 discussing an issue regarding the Ultra-Clean 24 trademark. Does that particular trademark relate 25 more closely to one raw material than another?</p>

Page 6

1 A. Yes.  
2 Q. And what is that?  
3 A. The comber, mechanically cleaned comber  
4 cotton.  
5 Q. Describe a little bit more specifically  
6 what you are referring to when you refer to comber  
7 cotton?  
8 A. Comber is a byproduct of combed yarns  
9 and it's generally a clean product, but we  
10 mechanically clean it additionally for the  
11 nonwovens markets.  
12 Q. And by comber, you are referring to very  
13 short staple length cotton?  
14 A. Yes, byproduct.  
15 Q. Which is sort of a leftover of the  
16 combing process, is that correct?  
17 A. Correct, that's correct.  
18 Q. Is this particular industry a broad  
19 industry or relatively narrow industry?  
20 A. It's very narrow, yeah.  
21 Q. And roughly how many major businesses  
22 would you say are in that niche area?  
23 A. What part?  
24 Q. That compete with Barnhardt?  
25 A. Maybe two or three.

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1 MR. LIPSCOMB: Hello.  
2 MR. ADAMS: Sorry, were you going to say  
3 something, Lip?  
4 MR. LIPSCOMB: No. I thought the phone  
5 went dead.  
6 MR. ADAMS: We are still here.  
7 Mr. Barnhardt, do you recall when the  
8 first time Barnhardt, when it was the first time  
9 that Barnhardt ever used a trademark that included  
10 the word ultra?  
11 THE WITNESS: Yes, probably about 1994,  
12 early '90s.  
13 BY MR. ADAMS:  
14 Q. What was that trademark?  
15 A. The ULTRAWHITE.  
16 Q. Does Barnhardt still use that trademark  
17 today?  
18 A. Yes, sir.  
19 Q. And in connection with what product does  
20 it use that trademark?  
21 A. Well, all of our family of bleached  
22 cotton products.  
23 (Exhibit No. 1 marked for  
24 identification.)  
25 BY MR. ADAMS:

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1 Q. Mr. Barnhardt, the court reporter has  
2 handed you a document marked for identification as  
3 Exhibit No. 1. Would you identify that for the  
4 record, please?  
5 A. The trademark for the ULTRAWHITE cotton.  
6 Q. And on this particular document, what  
7 does it refer to as the goods and services on  
8 which the mark is used?  
9 A. Processed cotton fibers.  
10 Q. Does Barnhardt still use the ULTRAWHITE  
11 trademark today?  
12 A. Yes.  
13 Q. And has that use been continuous since  
14 1994?  
15 A. Yes.  
16 Q. Does the processed cotton fiber that's  
17 referred to in Exhibit No. 1 bear any similarity  
18 to any other type of cotton which Barnhardt  
19 processes today?  
20 A. Would it be similar?  
21 Q. Yes.  
22 A. Yes.  
23 Q. And, Mr. Barnhardt, over the years has  
24 Barnhardt used the ultra prefix on any other  
25 trademarks that Barnhardt has used to identify its

Page 9

1 products?  
2 A. Yes.  
3 Q. Can you remember what some of those are?  
4 A. Ultra-Bloc was an antimicrobial,  
5 Ultra-Scent, Ultra-Sorb, Ultra-Clean, pretty much  
6 across that.  
7 Q. Are you familiar with a company called  
8 T.J. Beall?  
9 A. Yes.  
10 Q. What do you know about that company?  
11 A. I know its founders quite well, Julian  
12 Beall and his brother, Bruce Beall.  
13 (Exhibit No. 2 marked for  
14 identification.)  
15 BY MR. ADAMS:  
16 Q. The court reporter has marked for  
17 identification a document marked as Exhibit No. 2  
18 and, Lip, this is production number 10. It's a  
19 page printed off of the T.J. Beall website.  
20 Mr. Barnhardt, you have Exhibit No. 2 in  
21 front of you?  
22 A. Uh-huh. Yes.  
23 Q. Has Barnhardt ever had any business  
24 relationship with T.J. Beall?  
25 A. Yes.

4 (Pages 10 to 13)

Page 10	Page 12
<p>1 Q. Would you describe what that 2 relationship is or was? 3 A. Late '90s we began a commercial 4 agreement with them on reginned motes. We were 5 buying reginned motes from them pretty extensively 6 for a number of years. So we have had on occasion 7 them in our facility. We have been to their 8 facilities. 9 I have been fishing with Julian and 10 Bruce Beall for the weekend before, so, yeah. 11 Q. And are you familiar with a company 12 called Wildwood Gin? 13 A. Yes. 14 Q. Do you know what relationship, if any, 15 that entity has with T.J. Beall? 16 A. It's my understanding that Wildwood Gin 17 is an exclusive processor of the ginned motes for 18 T.J. Beall, and they also have a joint venture for 19 the fiber processing in Greenwood. 20 Q. Just for the record, would you first of 21 all describe briefly what a gin is in the context 22 that we are discussing? 23 A. Yes. I think the Wildwood Gin is not a 24 traditional cotton gin, that gin what's referred 25 to as seed cotton. It's more of a gin for</p>	<p>1 product? 2 A. It more closely resembles a virgin fiber 3 characteristics versus the comber that we were 4 speaking about earlier. 5 Q. Directing your attention specifically to 6 the product sold by T.J. Beall that bears the name 7 or the trademark Ultraclean, are you familiar with 8 what that product is? 9 A. Yes. 10 Q. What is that product? 11 A. It's a carded virgin or sample loose 12 product. 13 Q. In other words cotton? 14 A. Yes. 15 Q. Is it similar to the cotton product that 16 Barnhardt markets and has marketed under the name 17 Ultra-Clean? 18 A. It is -- it's marketed in the same 19 markets, but our product is bleached and this is 20 not bleached. 21 Q. Is that the only significant difference? 22 A. Yes. 23 Q. Are both products usable in the same end 24 uses? 25 A. We would argue not, but they are</p>
Page 11	Page 13
<p>1 cleaning a gin mote, which is a byproduct of 2 cotton ginning. 3 So the finished product is a reginned 4 mote. So the Wildwood Gin in this form is a regin 5 plant. 6 Q. What is a gin mote? 7 A. It's the byproduct off the lint cleaners 8 in a cotton gin. 9 Q. And what is the byproduct? 10 A. It's roughly 50 percent stalk stem, 11 plant matter and 50 percent fiber. 12 Q. And the purpose of processing this is to 13 remove the plant stems and other matter from the 14 fiber? 15 A. That's correct, it's a fiber reclamation 16 process. 17 Q. What type of fiber results from this 18 process? 19 A. The tradename is Reginned Motes, but 20 it's a good quality product that can be consumed 21 in -- well, we consumed it for consumer products, 22 bleaching it for consumer products and the 23 spinning trade uses it traditionally for spinning 24 yarn. 25 Q. Is this a short staple or a long staple</p>	<p>1 marketed after -- Beall would, we would not. 2 Q. What does Beall market their product 3 for, their Ultraclean product for? 4 A. For the medical and feminine hygiene 5 products. 6 Q. What does Barnhardt market its 7 Ultra-Clean product for? 8 A. The feminine hygiene products as well. 9 Q. So is it fair to say that Barnhardt and 10 T.J. Beall are competitors of each other? 11 A. Yes. 12 MR. ADAMS: Mark this as Exhibit No. 3. 13 (Exhibit No. 3 marked for 14 identification.) 15 BY MR. ADAMS: 16 Q. This is Exhibit No. 3, which is 17 Barnhardt production number 28. 18 Mr. Barnhardt, the court reporter has 19 handed you a document marked for identification as 20 Exhibit No. 3. I want to direct your attention to 21 two short extracts from the left-hand column of 22 this document. 23 The first one begins directly under the 24 heading cotton is king. Do you see that? 25 A. Yes, sir.</p>

Page 14	Page 16
<p>1 Q. What I would like for you to do is to 2 read into the record the first two short 3 paragraphs of that document that I just -- under 4 the heading "Cotton Is King." 5 A. Not sitting on the sidelines, Barnhardt 6 Manufacturing Company, a pioneer in the green 7 movement has been selling recycled cotton for over 8 60 years. 9 Barnhardt offers UltraClean Comber, a 10 byproduct of the yarn spinning process. 11 Applications include fem care, baby wipes, swab 12 and medical balls. 13 Q. Skip down to just before the end of that 14 paragraph. Do you see the paragraph that begins 15 being green? 16 A. Yes. 17 Q. Would you read that paragraph into the 18 record, please? 19 A. Yes. Being green is also the focus of 20 T.J. Beall Company's strategy for success. The 21 company's UltraClean product is a mechanically 22 cleaned virgin cotton raw material made from U.S. 23 grown cotton. 24 Lawson Gary, president of manufacturing, 25 said "we are seeing a lot of enthusiasm from the</p>	<p>1 Exhibit No. 4. Can you identify this document? 2 A. It's an internal e-mail from Garland 3 Green who is a sales rep for Barnhardt 4 Manufacturing. 5 Q. Does this e-mail refer in any way to the 6 Ultra-Clean trademark? 7 A. Yes. On the last closing sentence he is 8 referring to the Ultra-Clean cotton. 9 MR. ADAMS: Mark this for identification 10 as Exhibit No. 5, please. 11 (Exhibit No. 5 marked for 12 identification.) 13 BY MR. ADAMS: 14 Q. Now, Mr. Barnhardt, the court reporter 15 has handed you a document marked for 16 identification as Exhibit No. 5. Can you identify 17 this document for the record? 18 A. Once again, it's an internal e-mail from 19 Garland Green, a sales rep from Barnhardt 20 Manufacturing. 21 Q. And does Exhibit No. 5 refer in any way 22 to labeling a particular product with the 23 Ultra-Clean trademark? 24 A. Yes. 25 Q. Would you read that part of the e-mail,</p>
Page 15	Page 17
<p>1 industry to combine more natural staple fibers in 2 blends for different carded technologies. The 3 most interest currently is from the personal and 4 home care markets. 5 Q. Mr. Barnhardt, what website is this 6 document printed from? 7 A. I believe it was Nonwovens Industries. 8 Q. Is that a trade publication that 9 Barnhardt subscribes to? 10 A. Yes. It's one of the larger trade 11 publications in nonwovens, yes. 12 Q. What's the date of this publication? 13 A. February 2011. 14 Q. Mr. Barnhardt, when did Barnhardt first 15 use the Ultra-Clean trademark on any Barnhardt 16 product? 17 A. March 2006. 18 MR. ADAMS: Let's mark for 19 identification Barnhardt document production 20 number 85. 21 (Exhibit No. 4 marked for 22 identification.) 23 BY MR. ADAMS: 24 Q. Mr. Barnhardt, the court reporter handed 25 you a document marked for identification as</p>	<p>1 please? 2 A. Starting with purchase order J3000206, 3 bleach comber put through phase one cleaning will 4 be labeled and called BCC Ultra-Clean. 5 Q. What does the BCC refer to? 6 A. It's a reference to Barnhardt commodity 7 comber. 8 Q. Is that a part of the trademark? Was it 9 intended by Barnhardt as a part of the trademark? 10 A. It's been part of the identification of 11 comber in our organization, so yes. 12 Q. It's a description of the product, 13 correct? 14 A. Yes. 15 MR. ADAMS: This will be No. 6. 16 (Exhibit No. 6 marked for 17 identification.) 18 BY MR. ADAMS: 19 Q. Mr. Barnhardt, the court reporter has 20 handed you a document marked for identification as 21 Exhibit No. 6. Can you identify this for the 22 record? 23 A. Yes. It's a Barnhardt Manufacturing 24 produced bale label for bleached cotton. 25 Q. You are saying bale, B-a-l-e?</p>

6 (Pages 18 to 21)

Page 18	Page 20
<p>1 A. Yes.</p> <p>2 Q. What does that mean exactly?</p> <p>3 A. What we do is we sell raw material for</p> <p>4 manufacture, so it's in a bale form. So that's</p> <p>5 the package form that it's in.</p> <p>6 So this is a bale tag that would</p> <p>7 identify the product in the bale.</p> <p>8 Q. When you say bale, you are referring to</p> <p>9 a large compressed lump of cotton that's been</p> <p>10 packaged in burlap and strapped and so forth, is</p> <p>11 that right?</p> <p>12 A. In polypropylene, but, yes; and it's</p> <p>13 roughly 512 pounds, yes.</p> <p>14 Q. And when you refer to this as a label,</p> <p>15 exactly what do you mean when you say label?</p> <p>16 A. It is affixed to the bale in three</p> <p>17 different locations.</p> <p>18 Q. And that's done by Barnhardt?</p> <p>19 A. Yes.</p> <p>20 Q. And it's shipped by Barnhardt with the</p> <p>21 label affixed to the bale?</p> <p>22 A. Yes.</p> <p>23 Q. Do you see Barnhardt's name anywhere on</p> <p>24 this Exhibit No. 6?</p> <p>25 A. Yes, in the middle.</p>	<p>1 trademark, and Mr. Barnhardt's answer was?</p> <p>2 A. No.</p> <p>3 Q. Since March 2006, how has Barnhardt</p> <p>4 promoted or advertised the products it sells using</p> <p>5 the Ultra-Clean trademark?</p> <p>6 A. Through trade shows, through market --</p> <p>7 bale tags, the invoices, internal literature.</p> <p>8 Q. Mr. Barnhardt, when was the first time</p> <p>9 you noticed Ultraclean being used by T.J. Beall?</p> <p>10 A. 2009, 2010.</p> <p>11 Q. And how did that come to your attention?</p> <p>12 A. Nonwoven publications.</p> <p>13 Q. T.J. Beall was advertising their product</p> <p>14 using Ultraclean in various types of industry</p> <p>15 publications?</p> <p>16 A. Right.</p> <p>17 Q. Did you learn that because of your own</p> <p>18 review of these publications or did someone bring</p> <p>19 it to your attention?</p> <p>20 A. Own review of the publications, right.</p> <p>21 Q. To the best of your knowledge, Mr.</p> <p>22 Barnhardt, did T.J. Beall have knowledge of</p> <p>23 Barnhardt's use of the trademark Ultra-Clean</p> <p>24 before it started using the mark itself?</p> <p>25 A. Yeah, I would think so, yes.</p>
Page 19	Page 21
<p>1 Q. You are referring to the word Barnhardt</p> <p>2 with manufacturing company underneath it, and then</p> <p>3 there is what appears to be a cotton bowl next to</p> <p>4 it?</p> <p>5 A. That's correct.</p> <p>6 Q. Mr. Barnhardt, is the trademark</p> <p>7 Ultra-Clean still being used by Barnhardt today?</p> <p>8 A. Yes.</p> <p>9 Q. Is it still being used on the same</p> <p>10 products as it originally was in March of 2006?</p> <p>11 A. Yes.</p> <p>12 Q. Does Barnhardt have any intention of</p> <p>13 discontinuing the use of Ultra-Clean?</p> <p>14 A. No.</p> <p>15 Q. How has Barnhardt promoted or --</p> <p>16 MR. LIPSCOMB: Would you repeat that</p> <p>17 last answer?</p> <p>18 THE WITNESS: No.</p> <p>19 MR. LIPSCOMB: No, you won't repeat it?</p> <p>20 THE WITNESS: No, sir, I'm sorry, that</p> <p>21 was the answer.</p> <p>22 BY MR. ADAMS:</p> <p>23 Q. Yeah, let's go back. I think the</p> <p>24 question was whether Barnhardt had any intention</p> <p>25 of discontinuing the use of the Ultra-Clean</p>	<p>1 Q. Why is that?</p> <p>2 A. Just the familiarity of our business,</p> <p>3 dealings together, they would attend trade shows</p> <p>4 that we were attending.</p> <p>5 We had a lot of interaction on the</p> <p>6 commercial aspects of what we were to go and what</p> <p>7 our future plans were and what markets we were</p> <p>8 targeting. So, yeah, I would think so.</p> <p>9 MR. ADAMS: Lip, give me just one</p> <p>10 minute, okay.</p> <p>11 MR. LIPSCOMB: Sure.</p> <p>12 MR. ADAMS: I'm going to put you on</p> <p>13 mute.</p> <p>14 (Off-the-record, brief recess.)</p> <p>15 BY MR. ADAMS:</p> <p>16 Q. All right, Lip, I have one or two more</p> <p>17 questions.</p> <p>18 Mr. Barnhardt, would you describe</p> <p>19 generally the geographic extent of Barnhardt's</p> <p>20 shipments of the products bearing the Ultra-Clean</p> <p>21 trademark?</p> <p>22 A. Yeah, Europe, Israel and America.</p> <p>23 Q. Has that been the case since 2006?</p> <p>24 A. Yes.</p> <p>25 Q. And is it still the case?</p>

Page 22	Page 24
<p>1 A. Uh-huh.</p> <p>2 Q. Do you have any knowledge of what the</p> <p>3 geographic extent of shipments by T.J. Beall is</p> <p>4 for products that have the Ultraclean trademark on</p> <p>5 it?</p> <p>6 A. I do not. I do not. I know of domestic</p> <p>7 customers they have, but that's the extent of my</p> <p>8 knowledge.</p> <p>9 Q. Would you name a couple of their</p> <p>10 domestic customers that you are aware of?</p> <p>11 A. I know of a company down in South</p> <p>12 Carolina that buys from them, but I don't know the</p> <p>13 name. I just know there is a group down there</p> <p>14 that is purchasing the product from what I</p> <p>15 understand.</p> <p>16 Q. Has T.J. Beall ever approached</p> <p>17 Barnhardt's customers to sell their Ultraclean</p> <p>18 products so far as you know?</p> <p>19 A. Yes.</p> <p>20 Q. And why do you believe that?</p> <p>21 A. They are marketing their product into</p> <p>22 the same markets we are marketing our products.</p> <p>23 So they are trying to sell their</p> <p>24 Ultraclean to the same people we are trying to</p> <p>25 sell the Ultra-Clean to.</p>	<p>1 our business dealings were so close that them not</p> <p>2 knowing would probably be further out of the box</p> <p>3 than them knowing that we use that terminology.</p> <p>4 BY MR. LIPSCOMB:</p> <p>5 Q. So you have no actual knowledge that</p> <p>6 they knew of your mark, your use of Ultra-Clean?</p> <p>7 A. I don't know if actual, no.</p> <p>8 MR. LIPSCOMB: That's all I have.</p> <p>9 MR. ADAMS: I think we are finished.</p> <p>10 (Signature reserved.)</p> <p>11 (Whereupon, at 10:32 a.m., the taking of</p> <p>12 the instant deposition ceased.)</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
Page 23	Page 25
<p>1 Q. Who generally do you sell the</p> <p>2 Ultra-Clean product to?</p> <p>3 A. The nonwovens, which the primary</p> <p>4 platform is what's referred to as spun lace or</p> <p>5 hydro entangled nonwovens, or carded and needle</p> <p>6 punched nonwoven product that is traditionally</p> <p>7 going into a baby wipe, a nonwoven substrate for</p> <p>8 feminine hygiene or medical or industrial type</p> <p>9 wipe product.</p> <p>10 Q. It's your understanding that T.J. Beall</p> <p>11 markets to these same industries?</p> <p>12 A. Yes.</p> <p>13 MR. ADAMS: I don't have any further</p> <p>14 questions.</p> <p>15 MR. LIPSCOMB: I would like to ask one</p> <p>16 question.</p> <p>17 MR. ADAMS: Go right ahead.</p> <p>18 EXAMINATION BY COUNSEL FOR REGISTRANT</p> <p>19 BY MR. LIPSCOMB:</p> <p>20 Q. Mr. Barnhardt, do you have any actual</p> <p>21 knowledge that either T.J. Beall or Wildwood knew</p> <p>22 of your use of Ultra-Clean?</p> <p>23 MR. ADAMS: Objection. You can answer</p> <p>24 if you can.</p> <p>25 THE WITNESS: I would just surmise that</p>	<p>1 ERRATTA SHEET</p> <p>2 RE: BARNHARDT MANUFACTURING COMPANY V. WILDWOOD</p> <p>3 GIN, INC.</p> <p>4 DEPOSITION OF: LEWIS BARNHARDT</p> <p>5 Please read this original deposition with</p> <p>6 care, and if you find any corrections or changes</p> <p>7 you wish made, list them by page and line number</p> <p>8 below. DO NOT WRITE IN THE DEPOSITION ITSELF.</p> <p>9 Return the deposition to this office after it is</p> <p>10 signed. We would appreciate your prompt attention</p> <p>11 to this matter.</p> <p>12 To assist you in making any such</p> <p>13 corrections, please use the form below. If</p> <p>14 supplemental or additional pages are necessary,</p> <p>15 please furnish same and attach them to this errata</p> <p>16 sheet.</p> <p>17 Page ____ Line ____ should</p> <p>18 Read: _____</p> <p>19 Page ____ Line ____ should</p> <p>20 Read: _____</p> <p>21 Page ____ Line ____ should</p> <p>22 Read: _____</p> <p>23 Page ____ Line ____ should</p> <p>24 Read: _____</p> <p>25</p>



8 (Pages 26 to 27)

<p style="text-align: right;">Page 26</p> <p>1 Page ____ Line ____ should 2 Read: _____ 3 Page ____ Line ____ should 4 Read: _____ 5 Page ____ Line ____ should 6 Read: _____ 7 Page ____ Line ____ should 8 Read: _____ 9 Page ____ Line ____ should 10 Read: _____ 11 Page ____ Line ____ should 12 Read: _____ 13 Page ____ Line ____ should 14 Read: _____ 15 Page ____ Line ____ should 16 Read: _____ 17 _____ 18 Signature of Witness 19 SUBSCRIBED and SWORN TO before me this ____ day 20 Of _____, 20____. 21 _____ 22 _____ 23 NOTARY PUBLIC 24 My Commission expires: _____ 25</p>	
<p style="text-align: right;">Page 27</p> <p>1 CERTIFICATE OF REPORTER 2 3 STATE OF NORTH CAROLINA} 4 COUNTY OF MECKLENBURG } 5 I, Andrea L. Nobrega, the officer before 6 whom the foregoing deposition was taken, do hereby 7 certify that the witness whose testimony appears 8 in the foregoing deposition was duly sworn by me; 9 that the testimony of said witness was taken by me 10 to the best of my ability and thereafter reduced 11 to typewriting under my direction; that I am 12 neither counsel for, related to, nor employed by 13 any of the parties to the action in which this 14 deposition was taken, and further that I am not a 15 relative or employee of any attorney or counsel 16 employed by the parties thereto, nor financially 17 or otherwise interested in the outcome of the 18 action. 19 _____ 20 ANDREA L. NOBREGA 21 Court Reporter and Notary 22 Public in and for North 23 Carolina. 24 25 My Commission expires: 11-25-16</p>	

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## **TAB 1**



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#### Typed Drawing

Word Mark ULTRAWHITE  
Goods and Services IC 022. US 001. G & S: processed cotton fiber. FIRST USE: 19940201. FIRST USE IN COMMERCE: 19940201  
Mark Drawing Code (1) TYPED DRAWING  
Serial Number 74385643  
Filing Date May 3, 1993  
Current Filing Basis 1A  
Original Filing Basis 1B  
Supplemental Register Date February 28, 1994  
Registration Number 1893824  
Registration Date May 9, 1995  
Owner (REGISTRANT) BARNHARDT MANUFACTURING CO. CORPORATION NORTH CAROLINA P.O. BOX 34276 Charlotte NORTH CAROLINA 28234  
Attorney of Record James A. Thomas  
Type of Mark TRADEMARK  
Register SUPPLEMENTAL  
Affidavit Text SECT 8 (6-YR). SECTION 8(10-YR) 20050826.  
Renewal 1ST RENEWAL 20050826  
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## **TAB 2**

## T. J. BEALL COMPANY, INC.

1602 ROPER AVENUE • WEST POINT, GA. • (706) 645-1800 • FAX (706) 643-0260

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### ABOUT OUR COMPANY



T. J. Beall, Sr. founded T. J. Beall Company in 1936 as a broker of textile by-products. Today we continue to be a family owned corporation. We are manufacturers of two main products – Reginned Motes and UltraClean™ Cotton.

Reginned Motes are used in the spinning of yarns and in the production of absorbent cotton products and nonwoven products. The consistency and quality of our Reginned Motes is second to none.

UltraClean™ Cotton is produced from 100% virgin cotton for the nonwovens industry. As its name intimates, it is “Ultra Clean,” and the fibers are very open and parallel, to enhance processability. Some of our customers say that it processes as well as any fiber they have used in both HE and needlepunching. Nonwovens made of cotton have excellent wet strength. UltraClean™’s cleanliness makes it the perfect Natural Fiber Choice for many nonwovens applications.

Additional trade includes Loose Cotton, and Damaged Cotton. We serve the textile industry, nonwovens industry, and the wiper industry.

Our home office is in West Point, Georgia, with production and primary warehousing facilities in Central Mississippi.

T. J. Beall Company’s suppliers know us for our reliability and punctuality. We are dedicated to superior service. Our customers know us to be a solid, lasting source for their fiber needs.

Please contact us for more information.

EXHIBIT

2

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**TAB 3**

## Sustainability

tion of our goods. Viscose, for example, accounts for a quarter of our raw materials. In addition, cotton fibers and PLA are utilized. In accordance with these principles, it was a matter of course for Sandler AG to obtain certification according to the FSC and PEFC standards, which refer to a sustainable handling of wood and products made of it, such as viscose. Sandler is now a certified user of sustainably produced raw materials in the manufacture of our spunlaced nonwovens," said Dr. Hornfeck.

## Cotton Is King

Not sitting on the sidelines, Barnhardt Manufacturing, a pioneer in the green movement has been selling recycled cotton for over 60 years.

Barnhardt offers UltraClean Comber, a by-product of the yarn spinning process. Applications include fem care, baby wipes, swabs and medical balls.

Barnhardt's newest product, Eco-Blend utilizes fabric cutting waste that has been refiberized and blended with virgin cotton or comber.

George Hargrove, Barnhardt's vice president of sales and marketing said, "Cotton has long been recognized as a sustainable product as it is renewable annually and is 100% biodegradable. We have reduced our energy consumption by 8% and water consumption by 33% per product output since 2007. We have reduced our GHG emissions by 6% per product output since 2007. These amounts have been verified by an independent licensed body during an LCA study conducted in 2010. Barnhardt Natural Fibers Group completed its LCA study in 2010 to benchmark improvements we have made to this point and to also provide a watermark for our future developments that will further improve our sustainability efforts."

Being green is also the focus of T.J. Beall Company's strategy for success. The company's UltraClean product is a mechanically cleaned virgin cotton raw material made from U.S. grown cotton.

Lawson Gary, president of manufacturing said, "We are seeing a lot of enthusiasm from the industry to combine more natural staple fibers in blends for different corded technologies. The most interest currently is from the personal and home care markets."

## Recycling Waste

Recycling waste to create sustainable nonwoven product and keep materials out of the landfill is another trend that is gaining steam.

Aquafil, a European market leader in carpet yarn manufacturing, textile yarn production and polymer engineering is partnering with Colbond, a leading producer and supplier of nonwoven primary carpet backings. Colbond will use Aquafil's Econyl, post-industrial and post-consumer recycled polyamide-6 to extend its range of environmentally friendly carpet backings. A substantial and growing part of Econyl is generated from carpet waste.

Colbond will be producing its new environmentally sustainable nonwovens containing recycled polyamide-6 (rPA-6) derived exclusively from Aquafil's Econyl process. Branded "Colback Green" these innovative backings comprise bi-component filaments with

a post-consumer recycled bottle scrap PET core and an Econyl rPA-6 skin.

## Zero Landfill

Obtaining zero landfill is becoming the ultimate goal for players who are seeking a more sustainable manufacturing process.

Nice-Pak recently announced that two of its four plants have gone zero landfill.

Paul Vanderheyden, vice president of operations said, "We're working very aggressively to reduce the amount of waste we have in the manufacturing process. The best way to handle your waste is to not have it,--zero landfill status. We had been recycling certain materials such as corrugates, plastic products and stretch wrap. There was waste that we were not able to find a home for from a recycling perspective so that was landfilled. The biggest percentage of that waste going to the landfill was rejected product--wet stacks that for one reason or another were not acceptable for sale."

In its Green Bay, WI plant, Nice-Pak works with a company that creates pellets from scrap material and sells it to utility companies and paper mills. "There's legislation in a number of states requiring utilities to get a certain percentage of their fuel from alternate sources," said Mr. Vanderheyden.

In its Indianapolis, IN plant, Nice-Pak works with a company that uses its waste to generate steam that is sold to a local utility for heating.

Nice-Pak is also offering greener packaging to its customers. The company recently developed Eco-Pak, a soft pack delivery system that holds high-efficacy surface disinfecting wet wipes.

"We replaced a canister with a package that is better and more usable from the consumer standpoint but is also significantly a real winner from a sustainability perspective. It has a lot less packaging material, is more compact and much easier to ship. There is a large reduction in the greenhouse gases that come about shipping the product compared to the canister product it replaced. We're always looking for ways to reduce the amount of packing materials that we have in our products without compromising their effectiveness but at the same time, finding ways to use less of the different packaging materials," said Mr. Vanderheyden.

Nice-Pak is also supplying higher count packages in an effort to help customers be more ecofriendly. "That allows you to have a net reduction in the amount of packaging materials per wipe," said Mr. Vanderheyden.

## Green Goals

When it comes to developing products that are sustainable, the buzz words are flushable and biodegradable.

Rockline Industries recently introduced Moist Toilet Tissue, a product which is flushable and biodegradable according to the INDA/EDANA flushability guidelines. Josh Eldridge, global environmental sustainability coordinator, said, "The innovation in this new product is that it breaks down and biodegrades in the waste stream and prevents the clogging of household plumbing and mu-

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3

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**TAB 4**

**David Spinks**

---

**From:** Garland Green  
**Sent:** Tuesday, December 06, 2005 4:23 PM  
**To:** 'Nachmi@Spuntech.com'; 'Kannan-J@Spuntech.com'  
**Cc:** 'Chen@Spuntech.com'; 'gldi@spuntech.com'; George Hargrove; David Spinks; Ken Rector  
**Subject:** Follow Up To Your December 1st Visit - Quality Enhancements & Evaluation

Gentlemen

Thanks for taking time out of your busy schedule to come and visit with us. AJ, congratulations on joining an outstanding company and best of luck in your new job.

**COMBER COTTON**

As discussed steps have been taken this year to reduce fiber contamination including more selectivity of comber fiber suppliers (Spuntech raw comber cotton to come only from Barnhardt's most proven domestic suppliers) and human visual inspection of Spuntech bleached cotton at the dryer. We are glad to here that Spuntech is seeing nice improvement with the last several shipments. We are now showing on each COA the reference letters of the combers that are used in each shipment. You said that you would arrange for us to receive information on the visual detection results for each shipment so that we can further review which are the best supplies as far as contamination is concerned

Relative to your request to run comber through phase 1 cleaning, this can be done but it will be more costly (increases shrinkage and slows down throughput to some degree). It is also possible that the extra cleaning will increase nep levels in the comber. Our agreed action plan is to run half of the next container through phase 1 cleaning for your evaluation and comments. We can both collect data referencing fiber length from both the cleaned and uncleaned production. Spuntech will run both products independently of the other to determine processability differences and to evaluate contamination levels of each. If the product is processed on the line with the vision system, we would like to see the results of the split shipment. Following your evaluation, we can determine the value of cleaning the comber.

**LONG STAPLE COTTON**

As you saw Barnhardt is adding some very sophisticated cleaning equipment for enhanced cleaning of long staple cotton which will be commercial early 2006. Barnhardt refers to this as our Phase 2 cleaning and the long staple cotton end product Barnhardt will call High Q Ultra as in Ultra High Quality cotton. Once Phase 2 cleaning goes commercial, Barnhardt will notify you so that Spuntech might order some bales for evaluation.

2006

We at Barnhardt are excited about the opening of Spuntech's new stateside spunlace plant in Roxboro, NC in 2006. This is a very sophisticated, versatile and state-of-the-art facility. We feel that there are great potential synergies between our two companies and we should be partnering at every opportunity in the New Year.

Here is to ultra clean cotton and building significant profitable new business together in the New Year.

Best Always

Garland  
704/ 287-3108 cell

Garland Green  
Director Of New Markets - Bleached Cotton  
Barnhardt Manufacturing Company  
1100 Hawthorne Lane  
Charlotte, NC 28205

**EXHIBIT**

4



Trade Secret/Commercially Sensitive Document  
Attorney's Eyes Only  
Pursuant to Protective Order

BAR 000085

12/6/2005



## **TAB 5**

**David Spinks**

---

**From:** Garland Green  
**Sent:** Monday, March 27, 2006 10:37 AM  
**To:** 'Chen@Spuntech.com'; 'Nachmi@Spuntech.com'  
**Cc:** 'Gidi@Spuntech.com'; George Hargrove; Ken Rector; David Spinks; Kent Kingsley; Danny Botts; Joann Smith; Pam Wright; Ann Margaret Bowers  
**Subject:** Phase I Cleaning Update

Gentlemen

Starting with purchase order J3/ 000192-2 (C6061) green flashers will be on all bales that were phase I cleaned. Starting with purchase order J3/ 000206 (C6621) bleached comber put through phase I cleaning will be labeled and called BCC Ultra Clean. Bleached comber shipped to Spuntech not put through phase I cleaning will be called Premium Comber and will not have flashers.

Avi -- please indicate on future purchase orders whether you want BCC Ultra (phase I cleaning & green flashers) or Premium Comber (no phase I cleaning & no flashers).

Please let me know if you have questions.

Best Always

Garland  
704/ 287-3108 cell

Garland Green  
Director Of New Markets - Bleached Cotton  
Barnhardt Manufacturing Company  
1100 Hawthorne Lane  
Charlotte, NC 28205  
704/ 376-0380 ext 1234  
1 800/ 277-0377  
704/ 342-1892 fax  
www.barnhardt.net

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-----Original Message-----

**From:** Kent Kingsley  
**Sent:** Tuesday, March 21, 2006 11:26 AM  
**To:** Joann Smith; Ken Rector; Danny Botts  
**Cc:** Ken Mills; David Spinks; Garland Green  
**Subject:** Spuntech

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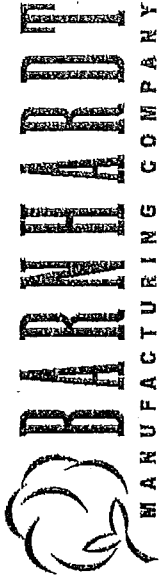
I have initiated a new PCS for Stage 1 cleaned comber for Spuntech (it is being issued a new product code). The bales are to be marked with (2) dark green flashers, one on each side of the bale (just like Pharma Tech).

Ken/Danny: We need to identify the bales that we currently have in the warehouse that have been through Stage 1 and have the flashers put on these bales. Please let Garland know what these car #'s are so that he can contact the customer.

If anyone has any questions please let me know.

## **TAB 6**

Not eligible for CCC payment



BCV10018BL1

BCC Ultra - Clean  
Moisture Content: 7.10%



BL1 - B003029 - 001 - K - 3



512 Lbs



232.2 Kg

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3/14/2011